

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 15558 of 2014 (T)

PETITIONER :

PREETHA KUMARI S., W/O.C.SREEKUMAR, AGED 46 YEARS,
'PREETHASREE', SGR-37, ATHIYANNUR,
ARALAMMOODU P.O., NEYYATTINKARA, TRIVANDRUM.

BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU
SMT.M.LISHA

RESPONDENTS :

1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
TRIVANDRUM, PIN: 695 001.
2. THE JOINT REGISTRAR (GENERAL),
CO-OPERATIVE SOCIETIES, VANCHIYOOR P.O., TRIVANDRUM,
PIN: 695 035.
3. POLICE STAFF CO-OPERATIVE SOCIETY LTD.,,
No.T.696, VAZHUTHACAUD, TRIVANDRUM – 695 014,
REPRESENTED BY ITS SECRETARY.
4. THE DIRECTOR BOARD,
POLICE STAFF CO-OPERATIVE SOCIETY LTD, No.T.696,
VAZHUTHACAUD, TRIVANDRUM – 695 014,
REPRESENTED BY ITS SECRETARY.

R3 & 4 BY SRI.GEORGE POONTHOTTAM
BY GOVERNMENT PLEADER SRI.P.P.PADMALAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 15558 of 2014 (T)

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1: TRUE COPY OF THE CIRCULAR NO.4/2006 DATED, 20/02/2006 OF THE REGISTRAR, CO-OPERATIVE SOCIETIES.
EXT.P2: TRUE COPY OF THE APPOINTMENT ORDER ISSUED TO THE PETITIONER BY THE 4TH RESPONDENT DATED 1/7/2009.
EXT.P3: TRUE COPY OF THE MEMO ISSUED TO THE PETITIONER DATED 5/2/2011 BY THE 5TH RESPONDENT.
EXT.P4: TRUE COPY OF THE JUDGMENT DATED 22/2/2011 IN WPC NO.4926/2011 OF THIS COURT.
EXT.P5: TRUE COPY OF THE JUDGMENT DATED 21/3/2011 IN WPC NO.8048/2011 OF THIS COURT.
EXT.P6: TRUE COPY OF THE LETTER DATED 5/4/2011 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
EXT.P7: TRUE COPY OF THE JUDGMENT DATED 8/4/2011 IN CON.CASE(C) NO.443/2011 OF THIS COURT.
EXT.P8: TRUE COPY OF THE ORDER IN A.R.C NO.12/2011 DATED 23/12/2013 OF THE CO-OPERATIVE ARBITRATION COURT, THIRUVANANTHAPURAM.
EXT.P9: TRUE COPY OF THE ORDER OF THE 4TH RESPONDENT DATED 29/3/2014 AS No.PSCS/223/2014/EST.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.15558 of 2014

Dated this the 27th day of October, 2015

JUDGMENT

The petitioner, who was working as Peon in the Police Staff Co-operative Society Ltd., the 3rd respondent herein, has approached this Court in this Writ Petition seeking a writ of certiorari to quash Ext.P9 order dated 29.3.2014 issued by the President of the 3rd respondent to the extent it denies her continuity of service from the date of her appointment and seeking a declaration that she is entitled to continuity of service as Peon from the date of her appointment, i.e., from 1.7.2009, as evidenced by Ext.P2. The petitioner has also sought for a writ of mandamus commanding respondents 3 and 4 to obey and implement Ext.P8 order passed by the Arbitration Court, Thiruvananthapuram in A.R.C.No.12 of 2011 forthwith.

2. I heard arguments of the learned counsel for the petitioner, the learned Government Pleader appearing for respondents 1 and 2 and also the learned counsel appearing for respondents 3 and 4.

3. The petitioner got initial appointment in the 3rd respondent Society in the year 1999 on daily wages. Later, her service was regularised in terms of Ext.P1 circular dated 4/2006, based on a decision taken by the Board of Directors of the Society on 20.6.2009. Accordingly, Ext.P2 order of appointment was issued by the President of the 3rd

respondent, which is dated 1.7.2009. By the aforesaid order, the petitioner, who was continuing as Business Loan/Deposit Collection Agent on daily wages, was regularised in service as Peon with effect from 1.7.2009. Later, the petitioner was terminated from service by issuing Ext.P3 memo dated 5.2.2011, which was under challenge before the Co-operative Arbitration Court, Thiruvananthapuram in A.R.C.No.12 of 2011.

4. By Ext.P8 award dated 22.12.2013 the Co-operative Arbitration Court set aside the order of termination. The Arbitration Court held that the petitioner is entitled to continue as Peon in the service of the Society with continuity in service with all service benefits. Ext.P8 award passed by the Arbitration Court has attained finality in the absence of any appeal filed by the 4th respondent Board under Section 88(1)(a) of the Kerala Co-operative Societies Act, 1969 before the Tribunal constituted under Section 81 of the Act. However, much after Ext.P8 award, the 4th respondent issued Ext.P9 order by which the petitioner was given appointment as Peon only with effect from 22.2.2014, thereby denying her continuity in service. It is aggrieved by the aforesaid order, the petitioner is before this Court in this Writ Petition.

5. As I have already noticed, Ext.P8 award passed by the Arbitration Court has attained finality, in the absence of an appeal filed by the 3rd respondent before the Tribunal. Once Ext.P8 award has attained

finality, the only option available to the 3rd respondent is to implement the said award in letter and spirit. Under the guise of implementing Ext.P8 award the 3rd respondent cannot sit in appeal over the said award. In that view of the matter Ext.P9 order to the extent it restricts the regularisation of the appointment of the petitioner as Peon only with effect from 22.2.2014 thereby denying her continuity in service with effect from 1.7.2009 cannot be sustained. Ext.P9 order to that extent is set aside and it is declared that the petitioner is entitled for continuity in service as Peon in the 3rd respondent Society with effect from 1.7.2009, in terms of Ext.P2 order of appointment, with all consequential monetary benefits, if any, in terms of Ext.P8 award, which shall be disbursed to her within a period of three months from the date of receipt of a certified copy of this judgment.

The Writ Petition is disposed of.

Sd/-

ANIL K.NARENDHAN, JUDGE

skj

True copy

P.A to Judge